IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. 854 of 2007

Date of decision: 8.8.2007

Gopal Dass … Petitioner

Versus

State of H.P & Ors. … Respondents.

Coram:
The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice V.K.Ahuja, Judge.

Whether approved for reporting?

For the Petitioner(s) : Mr. Lokender Thakur, Advocate.

For the Respondent(s) : Mr. M.S.Chandel, Advocate General with Mr. R.M.Bisht,DAG for Respondents 1 to 3.

For respondent No.4 : Mr. J.L.Bhardwaj, Advocate

Per Deepak Gupta, J. (Oral)

The admitted facts are that Parents Teacher Association, (for short PTA) Government Senior Secondary School, under the President-ship of respondent No. 4, conducted interviews for filling up a post of Lecturer (Hindi) in the Government Senior Secondary School, Deoth, District Bilaspur, H.P. on 4.11.2006.

The stand of the respondents is that pursuant to the interviews, one Dr. Nirmala was appointed as Lecturer

(Hindi) in the school in question who joined her duties on 9.11.2006, but she attended the school only on 2 days, i.e. 9.11.2006 and 10.11.2006. She thereafter remained absent and her services were terminated by the PTA on 29.11.2006. Thereafter the PTA issued a fresh letter of appointment in favour of the petitioner on 1.12.2006 which is attached as Annexure P-1 with the present writ petition. The petitioner alleges that consequent to his appointment he joined the school and that his services were terminated on 17.2.2006. Notice of this petition was given to the respondents. Respondent No. 4, though represented, has not filed separate reply and has submitted that reply filed by respondents No. 1 to 3 may be read on his behalf. The stand of respondents No. 1 to 3 is that they have no concern with the appointment or dismissal of the services of the petitioner. The stand of the State appears to be that the petitioner has not been appointed in accordance with the grant-in-aid Rules and, therefore, the petitioner is not entitled to the pay as per the government scales out of grant-in-aid provided by the government.

In the present case the grievance of the petitioner is only with regard to his termination and he has not claimed any relief with regard to the pay to be paid to him. Therefore, we are not deciding the question as to

whether the petitioner has been appointed in accordance with the rules or not. This may be decided in separate proceedings as and when this question arises.

However, from the facts on record it is apparent that the petitioner did work for about 2 months after he was appointed by the PTA. His services were dispensed with without giving any notice to him and till date no reason has been spelt out by any of the respondents as to why his services were terminated. We have, therefore, no option but to allow this writ petition and we consequently direct that the order of termination passed against the petitioner is illegal and void and the petitioner shall be permitted to continue working as Lecturer (Hindi) in the Government Senior Secondary School, Deoth, District Bilaspur, H.P. as an appointee of PTA till his services are dispensed with or he is replaced in accordance with law. The writ petition is disposed of in the aforesaid manner with no order as to costs.

(Deepak Gupta), J.

August 8, 2007(K) (V. K. Ahuja), J.